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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision : 30th August, 2019

+ LPA 552/2019 and CM Nos. 38666-38667/2019

VIJAY KAPOOR

..... Appellant

Through: Mr. Chetan Lokur and
Mr. Nitish Chaudhary, Advs. with appellant
in person

versus

THE HIGH COURT OF DELHI

..... Respondent

Through: Ms. Uri Mohan for Mr. Sanjoy
Ghose, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

30.08.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

CM No. 38666/2019 (condonation of delay)

1. This application has been preferred under Section 5 of the Limitation Act, 1963, for condonation of 60 days delay in re-filing the appeal.

2. Having heard learned Counsels for both sides and looking to the reasons stated in this application, there are reasonable reasons for condoning the delay. We, therefore, condone the delay in re-filing the appeal.

3. The application is allowed and disposed of.

CM No. 38667/2019 (exemption)

4. Exemption allowed, subject to all just exceptions.
5. The application is disposed of.

LPA 552/2019

6. This Letters Patent Appeal has been preferred by the original petitioner whose W.P.(C) 5380/2019 was dismissed by the learned Single Judge *vide* order dated 17th May, 2019 wherein the prayer of this appellant seeking direction of holding official inquiry in respect of tampering of a document dated 11th August, 2004 was not accepted by this Court. This appellant is the power of attorney holder of the original plaintiff who is challenging legality of a document presented in suit, after suit is decided, First Appeal is decided and after S.L.P. is decided.

7. Having heard counsel for the appellant and looking to the facts and circumstances of the case, it appears that Civil Suit being CS(OS) 100/2010 was decided by this Court *vide* judgment and decree dated 19th August, 2015.

8. Against the aforesaid judgment and decree dated 19th August, 2015 in CS(OS) 100/2010, First Appeal was preferred and thereafter SLP was also preferred and the same were dismissed. Thus, the judgment and decree dated 19th August, 2015 passed in CS(OS) 100/2010 has attained its finality. Thus legality of a document presented in a suit, cannot be challenged, after First Appeal and S.L.P. are finally disposed of.

9. It further appears from the facts of the case that Smt. Seema Thakur is the original plaintiff and Gopi Chand is the original defendant. The defendant, Gopi Chand had made a declaration that document dated 11th August, 2004 was fabricated and on the basis of said statement of the defendant, the suit was decreed.

10. It appears from the facts of the case that after a long delay from the date of the disposal of the CS(OS) 100/2010, W.P.(C) 5380/2019 has been instituted by the power of attorney holder of the original plaintiff-Smt. Seema Thakur. Moreover it further appears from the facts of the case that against the judgment and decree dated 19th August, 2015 in CS(OS) 100/2010, First Appeal was preferred, which was dismissed. SLP was also preferred and the same was also dismissed. Thus, the plea which is raised by this appellant in W.P.(C) 5380/2019 is at a much belated stage, and same could have been raised earlier in the First Appeal or in the SLP. These aspects of the matter have been properly appreciated by the learned Single Judge while deciding W.P.(C) 5380/2019 by the order dated 17th May, 2019.

11. We are in full agreement with the reasons given by the learned Single Judge and hence we see no reason to entertain this Letters Patent Appeal. Accordingly, the same is hereby dismissed.

CHIEF JUSTICE

AUGUST 30, 2019/kr

C. HARI SHANKAR, J.